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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Summary record of the 7th meeting
Held at Headquarters, New York, on Thursday, 12 June 2008, at 10 a.m.

Chairman: Mr. Natalegawa ..... (Indonesia)

Contents

Adoption of the agenda

Question of the Falkland Islands (Malvinas)

Hearing of representatives of the Non-Self-Governing Territory

Hearing of petitioners

Draft resolution A/AC.109/2008/L.8

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08-37756 (E)

The meeting was called to order at 10.10 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Question of the Falkland Islands (Malvinas)
(A/AC.109/2008/13; A/AC.109/2008/L.8)

2. **The Chairman** informed the Committee that the delegations of Argentina, Brazil, Paraguay, Peru and Uruguay had indicated their wish to participate in the Committee's consideration of the item.

Hearing of representatives of the Non-Self-Governing Territory

3. *At the invitation of the Chairman, Mr. Stevens and Ms. Robertson (Legislative Council of the Falkland Islands) took places at the petitioners' table.*

4. **Mr. Stevens** (Legislative Council of the Falkland Islands) said that while a strong link with Great Britain continued to exist, the population of the Falkland Islands was becoming increasingly diverse. The Falkland Islands had developed into a strong and well-managed economy that included fisheries, agriculture and tourism, with revenue generated from the return on Government investment and taxation. The fisheries industry had grown to include large businesses that competed in world markets and were working towards sustainability, with a view to working in a coordinated fashion with other jurisdictions in the region. Tourism, the fastest-growing industry, had seen an increase of 21 per cent in cruise ship passenger visits and a rise of 18 per cent in land-based tourists. Recent rises in wool and meat prices had provided farmers with incentive to improve pastures and livestock genetics. Hundreds of miles of roads had been built, and completion of the basic road network was expected within a few years. Housing was expanding rapidly, with the majority of homes boasting modern conveniences. Telecommunications development was reflected in the increasing use of mobile telephones, and island-wide mobile coverage was planned. Environmental responsibilities were not being neglected, with the waste heat from the power station being used to heat the swimming pool, hospital and community school, and a third of the Falkland Islands' power needs being met by a new wind farm.

5. In the area of politics, he cited improvements in the democratic process that included more openness and accountability in Government; the Governor no longer participated in regular sessions of the Legislative Council, having been replaced by a Speaker of the House elected by the members of that body. A select committee was working on modernizing the constitution, and new constitution negotiations with the United Kingdom were in their final stages. The constitutional review process was itself a democratic process, involving consultation with the electorate island-wide.

6. The Falkland Islands' partnership with Britain was based on the islanders' right to self-determination and their right to remain British for as long as they wished. Britain was responsible for the Falkland Islands' defence, fostering sustainable development and looking after the islanders' international interests, while the islanders themselves strove to provide good governance throughout their society. The connection with the British Government was cemented by the Falkland Islands constitution, which had been based on bilateral negotiation; the United Kingdom retained powers sufficient to discharge its international obligations with regard to the territory. Under the new constitution, the Governor would be bound by the advice of the Executive Council.

7. As a result of its own efforts, the Falkland Islands had created a vibrant economy with an ever-strengthening private sector. Its people wanted better relations with Argentina, but were not prepared to wait for others to decide their fate. He therefore urged the Committee to support their fundamental right to self-determination.

8. **Ms. Robertson** (Legislative Council of the Falkland Islands) said that she had come to protest the Committee's support for a draft resolution which was contrary to the concept of self-determination, to human rights and to the rights of peoples enshrined in the Charter of the United Nations. She disputed the Argentine claim to sovereignty, and the consequent claim that the existence of the sovereignty dispute over the Falkland Islands automatically negated the inhabitants' right to self-determination.

9. Challenging the argument that the dispute was between British colonialism on the one hand and historical claims of Argentine territorial integrity on the other, she noted that the Spanish settlement in the Falkland Islands had been evacuated in 1811, leaving them without any administration. Moreover, the British claim to the Falkland Islands dated back to 1765. Britain had consistently protested Argentine attempts to settle and administer the Falkland Islands, and had not — as was alleged — forcibly expelled the Argentine population in 1833. Argentina had officially

protested the British occupation of the Falkland Islands only once between 1849 and 1942. The population of the Islands was not transient and transplanted in nature; some inhabitants' families had been in residence for eight or nine generations. As the achievement of full sovereignty over the Islands was explicitly called for in the Argentine constitution, there could be only one acceptable result of any negotiation for Argentina with regard to the sovereignty issue.

10. Although the Charter of the United Nations recognized the principle of self-determination and although people had a right to self-determination under the International Covenant on Civil and Political rights, the draft resolution suggested that claims of sovereignty had greater justification than the right to self-determination of the people most affected by it. The Falkland Islanders were not seeking to secede from a nation State to which they belonged; they had never been part of the territory of Argentina. The Falkland Islands were an overseas territory of the United Kingdom, as were more than half of the other territories named as non-self-governing by the United Nations. All of those territories — with the exception of the Falkland Islands and Gibraltar — were recognized to have a right to self-determination. The draft resolution thus promoted the unjust principle that the rights of some people were paramount while the rights of others were disregarded because larger States wished to subsume them into their own territory.

11. While requiring Argentina and Great Britain to take account of the islanders' interests in negotiating the sovereignty issue, the draft resolution did not allow the islanders themselves to have any say in the matter, ignoring the fact that they had been building a distinct and unique identity for 176 years. Ignoring their entitlement to the universal right to self-determination was tantamount to calling into question the very principles which the Committee sought to promote.

12. Whereas, according to General Assembly resolution 3160 (XXVIII), the sovereignty dispute needed to be resolved before the colonial situation could be addressed, in fact, the colonial situation had already been resolved. Like all other British overseas territories, the Falkland Islands benefited from a relationship based on shared values and the right of each territory, enshrined in its constitution, to determine if it wished to continue that relationship. The administering Power took due account of the political aspirations of the people and assisted them towards progressive development. In contrast, Argentina wished to take over a territory, against the will of the people of that territory, on the basis of a 200-year-old claim.

13. Looking at the current list of Non-Self-Governing Territories, she asked why many of them were on it, and whether any true or useful help was being provided by the Committee to those territories on the list that wanted neither independence, nor free association, nor full integration. It was time to ask the people of those territories for their view as to whether the rigid criteria for decolonization as determined in General Assembly resolution 1541 (XV) were adequate to meet their interests and wishes in the twenty-first century.

14. It was the profound belief of the people of the Falkland Islands that they were entitled to self-determination, that the claim by Argentina was ill-founded, and that it respected neither modern values nor the principles of the Charter of the United Nations. She urged the Committee to recognize that sovereignty issues did not belong on its agenda, and that sovereignty claims should not supersede the right to self-determination. The people of the Falkland Islands wished for a normal and neighbourly relationship with Argentina, but were not willing to negotiate regarding their sovereignty. Argentina should cease its attempts to hamper their economic growth through the use of sanctions on firms wishing to operate in both Argentina and the Falkland Islands, and should work with the Governments of Great Britain and the Falkland Islands to continue the work of the South Atlantic Fishing Commission without insisting that sovereignty be placed on the agenda.

15. In conclusion, she urged the Committee to reconsider whether an anachronistic claim from the 1820s could truly be more valid in the twenty-first century than the rights of the people of the territory affected by that claim, and asked the representatives not to support the draft resolution.

16. *Mr. Stevens and Ms. Robertson withdrew.*

17. *At the invitation of the Chairman, Ms. Areguatí took a place at the petitioners' table.*

Hearing of petitioners

18. **Ms. Areguatí** said that as an Argentine, she was committed to resolving the Malvinas issue, a colonial situation that had been caused by a British act of force. In 1823, the Argentine Government had named Pablo Areguatí, her indigenous Guarani ancestor, army commander of Soledad Island in response to a request made by Jorge Pacheco. In an 1828 decree, Pacheco

had been granted the south-east lands of Soledad Island to start a colony within three years.

19. Although Argentina, at the time, was a newly independent nation, the Government had instituted a long-term policy to establish control of and to administer territories that had been under Spanish rule from 1767 until the 1810 revolution. The specific objectives of that policy were, inter alia, to establish Argentine sovereignty over the Patagonian mainland and insular territory, in the context of a plan that recognized the strategic nature of the Malvinas Islands in the southern region; to protect natural resources, in light of the worrisome devastation caused by fishing vessels from other nations, particularly England and the United States; and to encourage the establishment of a stable population and the development of fishing as the basis for a national navy.

20. The claim that Argentine occupation of the islands had not been effective during those years could not be justified. The United Kingdom had never challenged the Argentine authorities' effective presence on and public administration of the Malvinas Islands. In fact, it had formally acknowledged some Argentine governmental decrees concerning the islands, in accordance with the 1825 bilateral Treaty of Friendship, Commerce and Navigation. It was fallacious to claim that Argentina had ceded sovereignty over the Malvinas Islands to the United Kingdom by entering into a later bilateral treaty; the purpose of that 1849 treaty had been to end the illegal British naval blockade of the port of Buenos Aires.

21. By 1833, the Malvinas Islands were ruled by the Government of Buenos Aires and represented the strategic point of development of the Argentine Southern Patagonia. The Soledad colony was founded by Argentine settlers and later populated by families and workers from various countries, reaching a stable population of just over 100 inhabitants. That legitimately established population was expelled on 3 January 1833 and replaced by English subjects who had remained there since, preventing Argentines from settling in their own land and severing Argentine territorial integrity.

22. On behalf of her ancestor, Pablo Areguatí, she requested that the Committee promote constructive dialogue between the Argentine Republic and the United Kingdom in order to end a colonial situation that constituted an affront to all democracies.

23. *Ms. Areguatí withdrew.*

24. **Mr. Clifton**, noting that his grandfather had been born in the Malvinas and had then moved to Argentina, said that the discriminatory policy of the United Kingdom with regard to Argentine settlers in the Malvinas Islands meant that the current inhabitants of the Islands were not a native population with a legitimate relationship to the territory; rather, they were descendants of or participants in the United Kingdom's illegal colonization of the Islands. Under the circumstances, they were the beneficiaries rather than the victims of colonialism and, as such, were not interested in bringing the system to an end.

25. Spain's original sovereignty over the Malvinas Islands had been transferred to Argentina in the eighteenth century; following that, England had agreed to evacuate Port Egmont and not to settle in the eastern or western coasts of South America or in the adjacent islands. The Malvinas Islands had been incorporated into the territory of the Province of Buenos Aires in 1776 and Argentina had occupied the archipelago peacefully and exclusively until 3 January 1833, when its authorities were evicted by British forces. Therefore, Argentina retained a legitimate right to sovereignty over the Malvinas Islands. The only arguments England could present were its brief clandestine occupation of the islands in 1776 and its seizure of the islands in 1833 — a clear act of British imperialism.

26. He expressed the hope that the Special Committee would end all forms of colonialism in the world and that the Argentine Republic and Great Britain would reach a peaceful and prompt solution to their sovereignty dispute.

Draft resolution A/AC.109/2008/L.8

27. **Mr. Labbé** (Chile), introducing the draft resolution, said that, given that the situation was of a special and particular colonial nature, owing to the existence of a sovereignty dispute between the Argentine Republic and the United Kingdom, the way to resolve it was through a negotiated settlement of the dispute between the Governments of both countries. In that connection, he drew attention to paragraph 4 and expressed the hope that the draft resolution would be adopted by consensus.

28. Finally, he stressed that the presence, at the meeting, of a large number of representatives of Latin

American countries reflected the interest of the countries of the region in a definitive solution to the question. Chile supported the rights of the Argentine people and regretted that the issue had yet to be resolved.

29. **Mr. Taiana** (Observer for Argentina) recalled that, in its resolution 2065 (XX), the General Assembly had invited the Governments of Argentina and the United Kingdom to proceed with negotiations, bearing in mind the provisions and objectives of the Charter of the United Nations, General Assembly resolution 1514 (XV) and the interests of the inhabitants of the islands. The negotiations had indeed begun — and had been pointing towards a solution whereby the United Kingdom would recognize Argentine sovereignty from a date to be determined — but had stalled due to British reluctance.

30. The case of the Malvinas Islands was unique. He reiterated the Argentine Republic's inalienable and imprescriptible rights over the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas, which had been unlawfully occupied by the United Kingdom through an act of force. Since 1933, the Argentine Government had maintained a strong and uninterrupted stance of protest against the continued illegal occupation of part of its national territory.

31. The Argentine population and authorities, which had peacefully exercised Argentina's lawful rights over the Malvinas Islands as heir of Spain, had been expelled by a British fleet. British authorities had replaced the population with British subjects, and had then prevented Argentines from settling or owning land. That had led the local population to feel isolated from mainland Argentines. The population of transplanted British subjects could never be deemed a population subjected to colonial power.

32. Accordingly, the principle of self-determination was not applicable. The Malvinas question involved the unique case of a colonial situation without a colonized population. To accept that the mere passage of time might grant rights to a power that occupied foreign territories against the wishes of local populations, or to the transplanted subjects of that power, would be to establish a dangerous precedent.

33. His Government remained convinced that negotiation between the parties was the only way to put an end to the dispute and it was committed to respecting the way of life of the inhabitants of the islands, as provided for in its constitution and as requested of both parties by the United Nations.

34. His Government remained a strong advocate of peoples' right to self-determination whenever they were subject to foreign colonial domination, as Argentina itself had been born as a nation combating such domination. However, the principle of self-determination was not applicable to the Malvinas question, as had been made abundantly clear in 1985, when the General Assembly had voted against the United Kingdom's two attempts to include references to self-determination in a resolution on the issue.

35. Although Argentina had no doubts about its sovereignty over the Malvinas, South Georgia and the South Sandwich Islands and the surrounding maritime areas, it remained willing to negotiate, and to cooperate with the United Kingdom on practical aspects deriving from the de facto situation in the South Atlantic, under due legal safeguards. The United Kingdom, on the other hand, persisted in its refusal to negotiate. Such behaviour was unacceptable from any responsible member of the Organization, let alone a permanent member of the Security Council.

36. The core of both parties' positions on the issue were familiar to all. The solution must begin with negotiation. Indeed, the negotiations that had been conducted pursuant to General Assembly resolution 2065 (XX) had demonstrated that serious and immediate efforts from both parties could lead to a solution. For that reason, Argentina considered the good offices of the Secretary-General to be the only available option for bringing the parties to the negotiation table.

37. **Mr. Álvarez** (Observer for Uruguay), speaking on behalf of the South American Common Market (MERCOSUR) and the associated States of Bolivia, Chile, Colombia, Ecuador and Peru, said that at the recent MERCOSUR summit, the States Parties and associated States had adopted a joint communiqué reaffirming their commitment to MERCOSUR's Declaration on the Malvinas Islands, and had urged Argentina and the United Kingdom to conclude their long-standing dispute as quickly as possible.

38. Speaking on behalf of the Uruguayan Government, he reiterated its support for Argentine sovereignty over the Malvinas Islands and for a rapid and peaceful resolution of the dispute. There were

limits to the right to self-determination and compliance with General Assembly resolution 1514 (XV) must be based on respect for the territorial integrity of a State. The current situation of the Malvinas Islands was directly related to the territorial integrity of Argentina which, as had been argued successfully by numerous studies and experts, had an undeniable right over the Islands, as inherited from Spain.

39. **Mr. Malmierca Díaz** (Cuba) endorsed the statement made by Mr. Taiana and reiterated his Government's unconditional support of Argentina's legitimate right over the sovereignty of the Malvinas Islands as part of its national territory. He called for a negotiated, fair, definitive and prompt solution to the question, taking into account Argentina's territorial integrity and the islanders' interests and urged the United Kingdom to heed the Special Committee's call for negotiations and to respond to Argentina's willingness to resume the bilateral negotiation process. Until a definitive solution had been reached, unilateral acts introducing changes to the situation of the islands should not take place.

40. **Mr. Loizaga** (Observer for Paraguay) noted that, as had been repeatedly stated, the dispute could be resolved only through direct negotiations between Argentina and the United Kingdom, which should take into account the islanders' interests. The principle of self-determination did not apply in the present case because, as was made clear by General Assembly resolution 1514 (XV), the principle of territorial integrity must prevail. His delegation therefore supported the draft resolution before the Committee.

41. **Mr. Viotti** (Observer for Brazil) reiterated his Government's belief that Argentina had a legitimate claim to the islands and that the United Kingdom and Argentina should engage in dialogue in order to resolve the sovereignty dispute, as requested repeatedly by both the United Nations and the Organization of American States. He expressed concern about recent initiatives that were clearly incompatible with the existence of a sovereignty dispute over the Islands. In that connection, he recalled that, at a recent meeting in Buenos Aires, the Foreign Ministers of South American and Arab countries had stated that the inclusion of the Malvinas Islands, South Georgia and the South Sandwich Islands in the "Association of the Overseas Countries and Territories" regime was incompatible with the legitimate rights of Argentina and with the existence of a sovereignty dispute over the archipelagos. Finally he expressed support for the draft resolution before the Committee.

42. **Mr. Voto-Bernales** (Observer for Peru) said that Peru supported Argentina's sovereignty rights over the Malvinas Islands, South Georgia and the South Sandwich Islands, and that the only way to resolve the present situation was through negotiations between the two parties. He therefore urged Argentina and the United Kingdom to renew talks in order to reach a fair, peaceful and sustainable solution to their sovereignty dispute.

43. **Ms. Fernanda Espinosa** (Observer for Ecuador) reaffirmed her Government's support for Argentina's legitimate rights in regard to the Malvinas Islands, based on the principle of territorial integrity enshrined in General Assembly resolution 1514 (XV). That principle took precedence over the principle of self-determination, which could not apply to a territory taken by force. Her delegation supported the draft resolution and endorsed the appeal for the resumption of direct negotiations between Argentina and the United Kingdom with a view to a peaceful, just and lasting solution.

44. **Mr. Rosenthal** (Observer for Guatemala) recalled that the situation of the Malvinas Islands was a special and particular case, as recognized by the United Nations, for it differed from other colonial situations in that it turned around a dispute over sovereignty. He reiterated the call for direct negotiations between the parties aimed at achieving a peaceful settlement in accordance with the United Nations Charter and the relevant resolutions of the Special Committee, the General Assembly and the Organization of American States and urged the parties to enter into a dialogue at the very earliest opportunity.

45. **Mr. Davies** (Sierra Leone) said that the rights of the population of the Malvinas Islands should be paramount in any negotiated settlement. Any solution that failed to take into account the aspirations of the islanders would be inconsistent with paragraph 4 of the Millennium Declaration, which recognized peoples' right to self-determination, and would also run counter to article 73 (b) of the Charter of the United Nations. He therefore called on all parties to engage in dialogue with a view to arriving at a lasting solution, bearing in mind the interest and wishes of the population.

46. **Mr. Liu** Zhenmin (China) said that his Government had consistently held that territorial disputes between countries should be resolved through peaceful negotiations. He accordingly expressed support for the draft resolution before the Committee and called on the parties concerned to act in

compliance with the relevant General Assembly resolutions, continue their constructive dialogue and work towards an early, peaceful and just solution to the question, as set forth in the draft resolution.

47. **Mr. Paletskiy** (Russian Federation) also expressed support for the draft resolution and stressed the continuing need for a just and peaceful solution within the framework of bilateral negotiations, taking into account the relevant resolutions and decisions of the United Nations.

48. **Ms. Rodríguez de Ortiz** (Bolivarian Republic of Venezuela) said that her delegation had been pleased to co-sponsor the draft resolution, and she urged Members to adopt it by consensus. Her Government fully supported Argentina's legitimate rights in the sovereignty dispute over the Malvinas Islands and remained convinced that the only appropriate way to address the question was through dialogue with a view to a negotiated, peaceful settlement. Finally, she urged the Secretary-General to continue to use his good offices in order to assist the parties.

49. **Mr. Taleb** (Syrian Arab Republic) welcomed the presence of the Minister for Foreign Affairs of the Argentine Republic, which demonstrated the importance attached by that country to the work of the Committee. The position of his Government, based on the sacrosanct principle of territorial unity and integrity, was consistent with that expressed at the 2006 summit of South American and Arab countries in Brasilia and with that regularly adopted by the Group of 77 and the Non-Aligned Movement. He called for negotiations to be resumed between the parties with a view to reaching a solution to the dispute, and said that his delegation supported the draft resolution and hoped that it would be adopted by consensus.

50. **Mr. Saripudin** (Indonesia) said that the special and particular case of the Falkland Islands demonstrated the truth of the dictum that there were no universal criteria that could be applied to every decolonization question. It was clear from all the relevant United Nations resolutions that the only way to put an end to that colonial situation was through a peaceful, negotiated settlement. His delegation supported the draft resolution and hoped that it would be adopted by consensus.

51. **Ms. Welsh** (Grenada) reiterated her delegation's commitment to the principle of self-determination and the rights of a people to decide their own destiny. She urged the Governments of Argentina and the United Kingdom to continue negotiations with a view to achieving the best possible solution to the situation, in accordance with the relevant resolutions of the United Nations and the Organization of American States.

52. **Mr. Siles Alvarado** (Bolivia), recalling that the Members and Associate Members of MERCOSUR supported the Argentine Republic's sovereignty claim over the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas, reiterated his delegation's conviction that any solution must be arrived at through a constructive dialogue based on mutual trust. It was essential to develop consultative forums embracing all currents of regional and global public opinion in the interests of the multilateral approach required by the twenty-first century. Every possible opportunity should be used to relaunch the process of negotiations between Argentina and the United Kingdom. His delegation had again co-sponsored the draft resolution, and it hoped that it would be adopted by consensus.

53. **Mr. Mansour** (Tunisia) said that there was clearly a consensus in favour of a peaceful, just and lasting solution to the dispute, based on international law and that his delegation supported the draft resolution.

54. *Draft resolution A/AC.109/2008/L.8 was adopted without a vote.*

The meeting rose at 12.45 a.m.